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10/088,139	12/17/2002	Anne Eckert	ST99042USPCT	1457

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EXAMINER

HAMA, JOANNE

ART UNIT	PAPER NUMBER
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1632

NOTIFICATION DATE	DELIVERY MODE
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07/01/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Applicant filed a response to the Final Action of March 11, 2010 on June 10, 2010.

Claims 1-5, 7, 13-16, 21 are cancelled.

Claims 6, 8-12, 17-20, 22-25, drawn to a method for detecting compounds for the treatment of neurodegenerative diseases, are under consideration.

Maintained Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8-12, 17-20, 22-25 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Citron et al., 1998, Neurobiology of Diseases, 5: 107-116 in view of St. George-Hyslop et al., US Patent 6,395,960, patented May 28, 2002, Ishii et al., 1997, Neuroscience Letters, 228: 17-20, Borchelt et al., 1997, Neuron, 19: 939-945, and Xia et al., 1997, The Journal of Biological Chemistry, 272: 7977-7982, for reasons of record, June 18, 2009, March 11, 2010.

Applicant's arguments filed June 10, 2010 have been fully considered but they are not persuasive.

Applicant indicates that the instant rejection relies on the passage from the St. George-Hyslop applied reference that was quoted on page 3 of the Office Action. Page

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5, lines 12-16 of the Office Action explained the basis of the rejection with regard to reasonable expectation of success of the claimed invention. Applicant indicates that the St. George-Hyslop passage which states necrotic death, apoptotic death, all which have been found to be abnormal in human brain and/or peripheral tissue cells in subjects with Alzheimer's disease. The plain language of the quoted reference indicates that a list of events observed in brain and/or peripheral tissue but does not indicate where, for example, necrotic death, occurs and under what conditions and where apoptotic death occurs and under what conditions. Thus, relying on the plain language of the applied reference as evidence, it cannot be properly be concluded that St. George-Hyslop et al. teaches that cells that overexpress mutant presenilin apoptose because the reference does not distinguish between necrotic and apoptotic death and does not indicate the type of death that occur in which tissues (Applicant's emphasis, Applicant's response, pages 2-3). In response, this is not persuasive. At the time of filing, many publications in the art taught that there was a difference between apoptotic and necrotic cells based on morphological and biochemical characteristics (for example, see Martin et al., 1998, Brain Research Bulletin, 46: 281-309, page 282, under Cell Death Classification). As such, it is routine for an artisan to take any tissue and determine whether the tissue is apoptotic or necrotic.

Thus, the claims remain rejected.

Examiner's note: The following reference is cited to complete the art of record: Martin et al., 1998, Brain Research Bulletin, 46: 281-309.

Conclusion

No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Hama, Ph.D. whose telephone number is 571-272-2911. The examiner can normally be reached Mondays, Tuesdays, Thursdays, and Fridays from 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras, can be reached on 571-272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

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/Joanne Hama/
Primary Examiner
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